

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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GARY LA BARBERA, et al.,

Plaintiffs,

- against -

FEDERAL METAL & GLASS CORP.,

Defendant.
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ORDER

07 CV 3043 (NG)(CLP)

GERSHON, United States District Judge:

The court has reviewed the unopposed Report and Recommendations of Magistrate Judge Pollak, dated March 10 and March 29, 2009. Finding no clear error, the court adopts Judge Pollak's carefully-drawn conclusions and directs entry of judgment as follows:

- (1) Defendant is ordered to submit to an audit within 30 days of the entry of judgment;
- (2) If defendant fails to comply with the audit or has failed to maintain the records necessary to perform the audit, the court, upon affidavit of noncompliance from plaintiffs' counsel, will adopt plaintiffs' estimates of damages in the amounts of: \$42,157.80, representing the sum of \$16,319.17 in delinquent contributions owed; \$11,337.56 in prejudgment interest; and \$11,337.56 in liquidated damages;

(3) In addition, the court now awards plaintiff \$2,908.51 in attorneys' fees and costs, and \$255.00 in audit fees. If additional attorneys' fees and costs are expended during an audit, the plaintiffs may seek an additional award.

SO ORDERED.

s/Nina Gershon

NINA GERSHON
United States District Judge

Dated: Brooklyn, New York
October 16, 2009